

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JOE BILLY SMITH

PLAINTIFF

v.

No. 5:20-CV-05079

CPL. CLINT HAM, et al.

DEFENDANTS

OPINION AND ORDER

The Court has received a report and recommendation (Doc. 41) from United States Magistrate Judge Christy D. Comstock. Plaintiff filed objections (Doc. 42) and the Court has reviewed the report and recommendations de novo. Although the Court must review a report and recommendation de novo only with respect to those portions to which a party objects, 28 U.S.C. § 636(b)(1), the scope of that review in this case led to the further review underlying this order, which modifies the report and recommendation on a different basis than identified by Plaintiff.

The Magistrate recommends the Court grant Defendants' motion (Doc. 26) for summary judgment and dismiss Plaintiff's 42 U.S.C. § 1983 claims for injunctive relief and damages premised on an alleged violation of his Fourth Amendment rights. The Magistrate cites to *Heck v. Humphrey*¹ and subsequent Eighth Circuit authority for the proposition that even though a damages action does not necessarily undermine the validity of a conviction, a plaintiff must prove actual compensable injury in addition to any violation of constitutional rights. The Magistrate then concludes that *Heck* precludes recovery here because recovery undermines the validity of a conviction. The Court modifies this legal conclusion (though not its result) in the report and recommendation because the authority cited does not support the Magistrate's conclusion as it relates to an award of damages. Instead, the Court finds that nothing in the record demonstrates

¹ 512 U.S. 477 (1994).

actual compensable injury to Plaintiff in addition to any violation of constitutional rights, and on that basis concludes that *Heck* precludes recovery of damages. The Court otherwise agrees with the Magistrate's report and recommendation, which is ADOPTED AS MODIFIED.

Additionally, the Court's prior order (Doc. 12) dismissing claims against Separate Defendant Brent Bryant is modified to reflect that the dismissal is with prejudice. As that order sets out, Bryant is entitled to immunity from Plaintiff's claims.

IT IS THEREFORE ORDERED that Defendants' motion (Doc. 26) for summary judgment is GRANTED and this case is DISMISSED WITH PREJUDICE. Judgment will be entered separately.

IT IS SO ORDERED this 18th day of August, 2021.

P. K. Holmes, III

P.K. HOLMES, III
U.S. DISTRICT JUDGE